

REMARKS

At the outset, Applicants note that the changes to the rules of practice in the Claims and Continuations Final Rule provided in 72 Fed. Reg. 46716 and 1322 Off. Gaz. Pat. Office 76, including the October 10 clarifications, did not go into effect on November 1, 2007. See, e.g., <http://www.uspto.gov/web/offices/pac/dapp/opla/presentation/clmconfinalrule.html>

The Examiner requires restriction between the following claims under 35 USC §§ 121 and 372:

Group I, claims 1- 9 drawn to a suspension concentrate comprising a herbicidally effective amount of mesotrione.

Group II, claims 1 and 10-11, drawn to a pesticidal composition obtained by diluting a suspension concentrate comprising a herbicidally effective amount of mesotrione. .

Group III, claims 1.10, and 12-14, drawn to a method for controlling undesired plant growth of crops of useful plants comprising treating the useful plants, their seeds or seedlings of the crop area with a pesticidal composition obtained by diluting a suspension concentrate comprising a herbicidally effective amount of mesotrione.

Group IV, claims 15-27, drawn to a suspoemulsion formulation comprising
(A) a continuous aqueous phase;
(B) a dispersed emulsion phase and an emulsifier: and
(C) a herbicidally effective amount of mesotrione and a dispersing agent

Group V, claims 15 and 28-32, drawn a pesticidal composition obtained by diluting a suspoemulsion formulation comprising
(A) a continuous aqueous phase;
(B) a dispersed emulsion phase and an emulsifier: and
(C) a herbicidally effective amount of mesotrione and a dispersing agent
and a method for controlling undesired plant growth in crops of useful plants with the said composition.

Applicants are required to elect one group for examination even if with traverse. Applicants hereby elect to prosecute the invention of group I, claims 1 – 9, with right of traverse,

Applicants here traverse the requirement for restriction in that the invention primarily lies in the novel combination of mesotrione having an average particle size of less than 1 micron and a dispersing agent. Applicants contend that a reasonable search could go to generic claims embracing the suspension concentrates, including pesticidal compositions and related methods. Accordingly, the Examiner is respectfully requested to reconsider the requirement for restriction and withdrawal of the same. Additionally, the current guidelines on restriction practice recommend the examination of different sets of claims when such examination would not be unduly burdensome or prolonged. It is contended that this guideline would apply to the instant set of claims.

Applicants maintain that they have made a complete response to the restriction requirement of the Examiner and that the instant application and claims are now in condition for examination on their merits and for allowance. A Notice of Allowance is respectfully solicited.

Respectfully submitted,

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